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09/769,140 7590	01/25/2001 01/22/2003	Spencer A. Rathus	660-022	8419

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EXAMINER

LE, UYEN CHAU N

ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 01/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/769,140	RATHUS ET AL.	
	Examiner	Art Unit	
	Uyen-Chau N. Le	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 25 September 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 168-301 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 168-301 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____

DETAILED ACTION

Prelim. Amdt/Amendment

1. Receipt is acknowledged of the Amendment filed 25 September 2002.

Obviousness-Type Double Patenting

2. Claims 168, 296 and 299 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 5,932,863 (hereinafter '863).

Although the conflicting claims are not identical, they are not patentably distinct from each other because in claims 168, 296 and 299 of the instant application, Applicants claim a system for **displaying programming** material to a user, the system comprising “**a printed travel ticket having at least one machine recognizable feature**”, “**a feature recognition unit** having associated therewith a **means for recognizing** said machine recognizable feature and a **means for transmitting a coded signal** in response to the recognition of said machine recognizable feature”, “**an intelligent controller** having associated therewith a **means for accessing** said programming material in response to receiving said coded signal”, ... and “**a display unit** for presenting said programming material”. The '863 patent discloses a system for **displaying programming** to a user, the system comprising, among other things, “**a printed stationery having at least one machine recognizable feature**”, “**a feature recognition unit** having associated therewith a **means for recognizing** said feature and a **transmitter a coded signal** in response to the recognition of said feature”, “**an intelligent controller** having associated

therewith **a means for accessing** said programming material”, ... and “**a display unit** for presenting said programming material”. Although the scope of claims 168, 296 and 299 of the present application and claim 1 of ‘863 patent are almost identical, the difference between the present claimed invention and the ‘863 patent is that the present claimed invention is a broader recitation of the ‘863 patent (e.g., the present claimed invention recites “**a display unit** for presenting said programming material, etc.” whereby the ‘863 patent recites “**a display unit** for presenting said programming material, ... wherein said display unit comprises a personal computer, etc.”). Thus, with respect to above discussions, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to use the teaching of claim 1 of ‘863 patent as a general teaching for having a system for **displaying programming** to a user with the same functions as claimed by the present application. The instant claims obviously encompass the patented claims and differ only in terminology. To the extent that the instant claim is broaden and therefore generic to the patented claims [species], In re Goodman 29 USPQ 2d 2010 CAFC 1993, states that a generic claim cannot be issued without a terminal disclaimer, if a species claim has been previously been patented.

The obviousness-type double patenting rejection is a judicially established doctrine base upon public policy and is primarily intended to prevent prolongation of the patent term by prohibiting claims in a second patent not patentably distinct from claims in a first patent. In re Vogel, 164 USPQ 619 (CCPA 1970). A timely filed terminal disclaimer in compliance with 37 C.F.R § 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R § 1.78(d).

Provisional Obviousness-Type Double Patenting

3. Claims 168, 197-248, 257-260 and 265-301 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 168-221 and 224-263 of copending Application No. 09/769,149 (hereinafter ‘149).

Although the conflicting claims are not identical, they are not patentably distinct from each other because in claims 168, 197-248, 257-260 and 265-301 of the instant application, Applicants claim a system for **displaying programming** to a user, the system comprising “**a printed official document** having at least one **machine recognizable feature**”, “**a feature recognition unit** having associated therewith a **means for recognizing** said feature and a **means for transmitting a coded signal** in response to the recognition of said feature”, “**an intelligent controller** having associated therewith a **means for accessing** said programming material in response to receiving said coded signal”, ... and “**a display unit** for presenting said programming material”. The method of providing a user access to programming material, comprising the steps of “**imprinting a machine recognizable feature**”, “**scanning** said machine recognizable feature”, “**transmitting data** associated with said machine recognizable feature”. The ‘149 patent discloses a system for **displaying programming** to a user, the system comprising “**a printed stationery** having at least one **machine recognizable feature**”, “**a feature recognition unit** having associated therewith a **means for recognizing** said feature and a **means for transmitting a coded signal** in response to the recognition of said feature”, “**an intelligent controller** having associated therewith a **means for accessing** said programming material in response to receiving said coded signal”, ... and “**a display unit** for presenting said

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programming material". The method of providing a user access to programming material, comprising the steps of "**imprinting a machine recognizable feature**", "**scanning said machine recognizable feature**", "**transmitting data** associated with said machine recognizable feature". Although the scope of claims 168, 197-248, 257-260 and 265-301 of the present application and claims 168-221 and 224-263 of '149 application are almost identical, the difference between the present claimed invention and the '149 application is that the present claimed invention is a narrower recitation of the '149 application (e.g., the present claimed invention recites "**a printed official document** having at least one machine recognizable feature, etc." whereby the '149 application recites "**a printed stationary** having at least one machine recognizable feature, etc."). Thus, with respect to above discussions, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to use the teaching of claims 168-221 and 224-263 of '149 application as a general teaching for having a system for **displaying programming** to a user with the same functions as claimed by the present application. The instant claims obviously encompass the patented claims and differ only in terminology. To the extent that the instant claim is broaden and therefore generic to the patented claims [species], In re Goodman 29 USPQ 2d 2010 CAFC 1993, states that a generic claim cannot be issued without a terminal disclaimer, if a species claim has been previously been patented.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 168-201, 204-206, 223-224, 240, 249-256, 261-264, 267-270, 275-277, 280, 291, 296 and 298-301 are rejected under 35 U.S.C. 103(a) as being unpatentable over Withnall et al (US 4,488,035) in view of Fields (US 4,481,412) and Li et al (US 5,506,697).

Re claims 168, 193-201, 204-206, 223-224, 240, 267-270, 275-277, 280, 291, 296 and 298-301: Withnall et al discloses a system for displaying information to a user comprising a printed document, which is a travel ticket (e.g., train, bus, etc.) having at least one machine recognizable feature (i.e., barcode); a feature recognition unit 18 having associated therewith a means for recognizing the machine recognizable feature (col. 4, lines 2-30); display the information on the portable handset illuminated display having a microprocessor with programmable memories (col. 5, lines 10-17).

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Withnall et al fails to teach or fairly suggest that the displayed information is programming material and the system further comprising means for transmitting a coded signal in response to the recognition of the machine recognizable feature and an intelligent controller having associated therewith a means for accessing the programming material in response to receiving the coded signal.

Fields teaches the above limitation with an accessing means 10 having a microcontroller 23 including a barcode electronic circuit 25 electrically coupled to the barcode reader 24 for transmitting/accessing the programming material in response to receiving the coded signal (fig. 2; col. 7, line 40 through col. 8, line 11); wherein the displayed data is a video/image/programming/sound/pictorial/electronic/media data and wherein the display 22 is a television/workbook (col. 6, lines 56-64 and col. 8, line 12 through col. 9, line 55).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Fields into the teachings of Withnall et al in order to provide Withnall et al with a higher technology system wherein the user being provided with a full complete information in a flexible ways (i.e., video, pictorial, etc.). Furthermore, such modification would have been an obvious extension as taught by Withnall et al, and therefore an obvious expedient.

Withnall et al as modified by Fields fails to teach or fairly suggest that the printed document is an official document.

Li et al teaches the above limitation with printed document 220 is an official document, which is a tax return in this case (figs. 9 & 10; col. 7, lines 30-45).

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It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Li et al into the teachings of Withnall et al/Fields in order to provide Withnall et al/Fields with a more secure system wherein official documents can be prevented from being accessed by an unauthorized person due to the benefit of machine recognizable symbol/barcode, and thus providing a more user-friendly system wherein the user does not have to concern about his/her lost/stolen official document is read by fraudulent user. Furthermore, such modification would have been an obvious extension as taught by Withnall et al/Fields, and therefore an obvious expedient.

Re claims 169-192, 249-256 and 261-264: Withnall et al/Fields/Li et al have been discussed above but fails to teach or fairly suggest that the printed official document is a license, a registration, a passport, a visa, a green card, a license plate, a tag, a decal, a parking permit, a social security card, a health insurance card, a Medicaid card, a deed, a invoice, a receipt, a bill of sale, a library card, a newsletter, a application form, a lottery ticket, etc.

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to modify the printed official document as taught by Withnall et al/Fields/Li et al as a license, a registration, a passport, etc. wherein the modification has been merely a substitution of a functional equivalent which does not change the underlying inventiveness of Withnall et al/Fields/Li et al's teachings. Furthermore, such modification would have been an obvious design variation as taught by Withnall et al/Fields/Li et al , and therefore an obvious expedient.

7. Claims 202, 203, 208, 209, 210, 212, 217, 218, 220, 221 and 242-247 are rejected under 35 U.S.C. 103(a) as being unpatentable over Withnall et al as modified by Fields and Li et al as

applied to claim 168 above, and further in view of Roberts (US 5,324,922) and Malec et al (US 5,287,266). The teachings of Withnall et al as modified by Fields/Li et al have been discussed above.

Re claims 202, 203, 208, 209, 210, 212, 217, 218, 220, 221 and 242-247: Withnall et al/Fields/Li et al have been discussed above but fails to teach or fairly suggest feature for online/home shopping and the data link comprises a cable television line.

Roberts teaches the above limitation with a home/online shopping system (figs. 1-14; col. col. 1, lines 58+; col. 7, line 35 through col. 12, line 35).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Roberts into the teachings of Withnall et al/Fields/Li et al with a faster internet system due to the benefit of cable television transmitting capability. Furthermore, such modification would have been an obvious extension as taught by Withnall et al/Fields/Li et al to provide the user an alternative way of conducting shopping at his/her convenience (i.e., online shopping/at home), and therefore an obvious expedient.

Withnall et al/Fields/Li et al as modified by Roberts fails to teach or fairly suggest that the data link comprises an ISDN line.

Malec et al teaches the above limitation with the use of ISDN technology (col. 7, lines 1-12).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Malec et al into the teachings of Withnall et al/Fields/Li et al/Roberts in order to provide Withnall et al/Fields/Li et al/Roberts with the latest technology for a more accurate and faster system due to the benefit of ISDN networking line.

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Furthermore, such modification would have been an obvious extension as taught by Withnall et al/Fields/Li et al/Roberts and would have mere been a substitution of equivalents (i.e., to cable television line) well within the ordinary skill in the art, and therefore an obvious expedient.

8. Claims 207, 210, 214-216, 219, 222, 227-229, 231-232, 237-238, 241, 249-260, 265-266, 274, 279, 281-283, 294 and 297 are rejected under 35 U.S.C. 103(a) as being unpatentable over Withnall et al as modified by Fields and Li et al as applied to claims 168 and 296 above, and further in view of Bravman et al (US 5,401,944). The teachings of Withnall et al as modified by Fields/Li et al have been discussed above.

Re claims 207, 210, 214-216, 219, 222, 227-229, 231-232, 237-238, 241, 249-260, 265-266, 274, 279, 281-283, 294 and 297: Withnall et al/Fields/Li et al have been discussed above but fails to teach or fairly suggest that the display unit comprising a wireless communication device (e.g., a remote unit).

Bravman et al teaches the above limitation with remote units 15 providing all necessary information related to traveling (i.e., seat assignment; airline/hotel/rental cars reservations, etc.) in col. 4, line 21 through col. 14, line 5 and col. 16, line 14 through col. 18, line 22.

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Bravman et al into the teachings of Withnall et al/Fields/Li et al in order to provide Withnall et al/Fields/Li et al with a more flexibility system wherein the system is capable of providing the user all of his/her desired information about the trip/vacation that he/she is about to take, and thus providing a more user-friendly system. Furthermore, such modification would have been an obvious extension as taught by Withnall et al/Fields/Li et al, and therefore an obvious expedient.

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9. Claims 225, 230 and 233 are rejected under 35 U.S.C. 103(a) as being unpatentable over Withnall et al as modified by Fields and Li et al as applied to claim 168 above, and further in view of Anmelder (DT 2,452,202 A1). The teachings of Withnall et al as modified by Fields/Li et al have been discussed above.

Re claims 225, 230 and 233, Withnall et al/Fields/Li et al have been discussed above but fails to teach or fairly suggest that at least one machine recognizable feature is invisible.

Anmelder teaches the above limitation with the machine recognizable feature is invisible (see English abstract).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Anmelder into the teachings of Withnall et al/Fields/Li et al in order to provide Withnall et al/Fields/Li et al with a greater security system wherein the data recorded in the machine recognizable feature is invisible to naked eye, and thus preventing an unauthorized individual(s) from manipulating the data. Furthermore, such modification would have been an obvious extension as taught by Withnall et al/Fields/Li et al, and therefore an obvious expedient.

10. Claims 226 and 240 are rejected under 35 U.S.C. 103(a) as being unpatentable over Withnall et al as modified by Fields and Li et al as applied to claim 168 above, and further in view of Tannehill et al (US 5,158,310). The teachings of Withnall et al as modified by Fields/Li et al have been discussed above.

Re claims 226 and 240, Withnall et al/Fields/Li et al have been discussed above but fails to teach or fairly suggest that at least one machine recognizable feature comprises a magnetic code/strip.

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Tannehill et al teaches the above limitation with the machine recognizable feature can be a barcode or a magnetic strip (col. 18, lines 7-12).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Tannehill et al into the teachings of Withnall et al/Fields/Li et al in order to provide Withnall et al/Fields/Li et al with an alternative feature for encoding data. Furthermore, such modification would have been merely a substitution of equivalents well within the ordinary skill in the art, and therefore an obvious expedient.

11. Claims 234-236 and 239 are rejected under 35 U.S.C. 103(a) as being unpatentable over Withnall et al as modified by Fields and Li et al as applied to claim 168 above, and further in view of Schach et al (US 5,397,156) and Anmelder (DT 2,452,202 A1). The teachings of Withnall et al as modified by Fields/Li et al have been discussed above.

Re claims 234-236 and 239, Withnall et al/Field/Li et al s have been discussed above but fails to teach or fairly suggest that at least one machine recognizable feature comprises a watermark.

Schach et al teaches the above limitation with a machine recognizable feature 42 comprises a watermark (see abstract).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Schach et al into the teachings of Withnall et al/Fields/Li et al for its aesthetic purposes. Furthermore, such modification would have been an obvious extension as taught by Withnall et al/Fields/Li et al, and therefore an obvious expedient.

Withnall et al/Fields/Li et al as modified by Schach et al fails to teach or fairly suggest that at least one machine recognizable feature comprises an invisible watermark.

Anmelder teaches the above limitation with the machine recognizable feature is invisible (see English abstract).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Anmelder into the teachings of Withnall et al/Fields/Li et al/Schach et al in order to provide Withnall et al/Fields/Li et al/Schach et al with a more secure system wherein the data recorded in the machine recognizable feature is invisible to naked eye, thus preventing manipulating by fraudulent user. Furthermore, such modification would have been an obvious extension as taught by Withnall et al/Fields/Li et al/Schach et al, and therefore an obvious expedient.

12. Claims 213, 271-273, 278, 279, 284-290, 292, 293 and 295 are rejected under 35 U.S.C. 103(a) as being unpatentable over Withnall et al as modified by Fields and Li et al as applied to claim 168 above, and further in view of Morales (US 5,872,589). The teachings of Withnall et al as modified by Fields/Li et al have been discussed above.

Re claims 213, 271-273, 278, 279, 284-290, 292, 293 and 295: Withnall et al/Fields/Li et al have been discussed above but fails to teach or fairly suggest that the display unit comprises a personal planner/phone/pager.

Morales teaches the above limitation in figs. 2, 5, 8 & 9; col. 3, lines 28 through col. 7, line 12).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Morales into the teachings of Withnall et al/Fields/Li et al in order to provide the user with the flexibility of selecting his/her desired display unit that is fitting his/her needs, thus providing a more user-friendly system.

Furthermore, such modification would have been an obvious extension as taught by Withnall et al/Fields/Li et al, and therefore an obvious expedient.

Response to Arguments

13. Applicant's arguments with respect to claims 168-301 have been considered but are moot in view of the new ground(s) of rejection.

Newly cited reference to Withnall et al, Fields, Bravman et al, Anmelder, Tannehill et al, Malec et al, Schach et al, Morales and Roberts have been used in the new grounds of rejection to meet the newly submitted priority date of the application.

14. In response to the Applicant's argument with regard to "... this application and the copending '149 application both have an effective filing date of May 25, 1994. Since any patents issued from either application will automatically end on the same date, Applicant respectfully submits that a terminal disclaimer is not required..." (p. 6, 2nd paragraph), the examiner respectfully disagree, true, their terms may end on the same date but the "other" purpose of a double patenting/terminal disclaimer is to ensure that the "same" invention is not in two different patents which can be bought or sold separately.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The patents to Malec et al (US 5,295,064); Mueller et al (US 5,235,509); Burr (US 5,222,624); Metts (US 5,369,571); Von Kohorn (US 5,368,129); Mueller et al (US 5,353,219);

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Lemelson (US 3,735,350); Klausner et al (US 4,117,542); Greenberg (US 4,711,994); Osawa (JP 03,151,263); Schulz (EP 0,357,899); McCalley et al (US 5,119,188); Sebestyen (US 3,976,995); Fitzpatrick et al (US 5,262,860); Amendolia et al (US 5,288,977); Belluci et al (US 5,505,494); Izawa (US 5,385,371); Robert et al (GB 2,232,119); Pembroke (US 4,283,621); Citron et al (US 5,288,976); Swartz et al (US 6,095,418) and Watanabe (JP 06,110,913) are cited as of interest and illustrate a similar structure to a method and apparatus for accessing electronic data via a familiar printed medium.

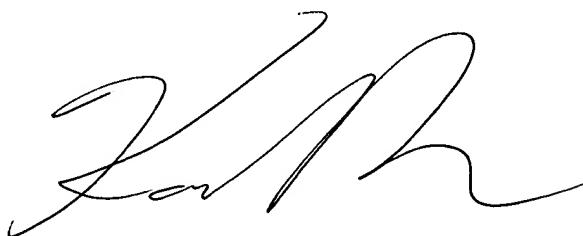
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen-Chau N. Le whose telephone number is 703-306-5588. The examiner can normally be reached on M, W, F, SAT 6:00-11:00 and T, TH 8:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL G LEE can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Uyen-Chau N. Le

January 14, 2003



KARL D. FRECH
PRIMARY EXAMINER